

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-2478

PEABODY COAL COMPANY; OLD REPUBLIC INSURANCE
COMPANY,

Petitioners,

versus

DON JEAN MORGAN; DIRECTOR, OFFICE OF WORKERS'
COMPENSATION PROGRAMS, UNITED STATES
DEPARTMENT OF LABOR,

Respondents.

On Petition for Review of an Order of the Benefits Review Board.
(03-135-BLA)

Submitted: May 14, 2004

Decided: June 9, 2004

Before LUTTIG, MOTZ, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mark E. Solomons, Laura Metcoff Klaus, GREENBERG TRAURIG,
Washington, D.C., for Petitioners. John H. Shumate, Jr., Mt. Hope,
West Virginia; Howard M. Radzely, Solicitor of Labor, Donald S.
Shire, Associate Solicitor, Patricia M. Nece, Counsel for Appellate
Litigation, Rita Roppolo, UNITED STATES DEPARTMENT OF LABOR,
Washington, D.C., for Respondents.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Peabody Coal Company seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's award of black lung benefits on a claim filed by Don J. Morgan pursuant to 30 U.S.C. §§ 901-45 (2000). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. Accordingly, we affirm on the reasoning of the Board. See Peabody Coal Co. v. Morgan, No. 03-135-BLA (BRB Oct. 31, 2003). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED